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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,185	01/16/2002	Masakatsu Kondo	020015	2846

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EXAMINER

WEEKS, GLORIA R

ART UNIT PAPER NUMBER

3721

DATE MAILED: 09/16/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/046,185

Applicant(s)

KONDO ET AL.

Examiner

Gloria R Weeks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

1. This action is in response to Applicants' amendment received on July 10, 2003.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Pape et al. (USPN 5,267,934).

In reference to claim 8 and 4-7, Pape et al. discloses a container plug attaching device for attaching to a container (16) edge portion defining an opening therefrom a tubular plug (36) having a flange (37; figure 3), the device including an anvil (46) and a sealing member (52) which cooperate to clamp therebetween for sealing the container edge portion and the flange by pressing, the device comprising: a container transport conveyor (14); a rotary shaft (28) carrying an anvil (46) carrying a plug-engaging projection (48) from a clamping face of the anvil (46; column 3, lines 3-5); drive means (column 3, lines 9-12); supply means for supplying plugs (36) to the anvil (46) including a plug transport member (34) and reciprocable delivery means (44, 45) that pushes the plug (36) out from the delivery opening of the plug transport member (34; column 2, line 59-column 3, line 5); and means actuatable with the anvil in the sealing position for attaching the plug to the container (16; column 3, lines 13-46).

Response to Arguments

4. Applicant's arguments filed July 10, 2003 have been fully considered but they are not persuasive. Applicant's first argument is that Pape et al. fails to disclose a plug-engaging projection extending from the clamping face of the anvil. Examiner disagrees based on column 3, lines 3-5 of Pape et al. which state that a suction cup (48) is mounted to the face of anvil (46). Considering the fact that the suction cup (48) is a three-dimensional element and is not flush with the surface of the anvil (46), it is considered to be "protruding" from the surface of the anvil (46).

Applicant's second argument states that the delivery means of Pape et al. oscillates rather than receiving induced movement from a rotary shaft. Column 3, lines 13-17 of Pape et al. state that the rotary shaft (28) rotates in a counterclockwise direction and as a result rotates the anvil (46).

Applicant further argues that Pape et al. fails to disclose a reciprocable plug delivery means, such as the fluid pressure cylinder claimed by Applicant. Examiner strongly disagrees based on Pape et al. specifically disclosing a cylinder (44) as the plug delivery means which inherently acts in a reciprocable movement.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (703) 605-4211. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 305-2187. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1789.


grw

Gloria R Weeks
Examiner
Art Unit 3721



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700